

LAND USE AUTHORIZATIONS OVERVIEW

Bureau of Reclamation – Use of Reclamation Project Land and Water Surfaces

The Bureau of Reclamation (Reclamation) projects are located in the 17 Western United States of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, Texas, New Mexico, Colorado, Wyoming, Montana, Idaho, Utah, Arizona, California, Nevada, Oregon, and Washington.

The Reclamation Project Act of 1939 – Section 10(53 Stat. 1187) authorizes Reclamation to issue use authorizations such as easements, leases, and permits/licenses, and other legal and binding contracts for activities on or across lands or interests in lands and water surfaces under the jurisdiction of Reclamation. Land use authorizations may be issued only when they will not interfere with Reclamation project purposes. They are to be, for the most part, temporary in nature and contain restrictive language that protects current and future Federal land interests.

The public may apply to use Reclamation lands or the surfaces of any project body of water and may engage in the use only after proper authorization is received from Reclamation. Land use authorizations are not required for permitted public recreational use of recreation areas and facilities open to the public.

Submission of an application for a use authorization does not constitute authority to use Reclamation project lands and surfaces of water. Consideration of applications to use Reclamation project lands and water surfaces is completely discretionary and Reclamation reserves the right to refuse to authorize any use which may be incompatible with the federally-authorized purposes of Reclamation projects or interferes with Reclamation's rights or operations.

What kinds of uses might be authorized by Reclamation?

Reclamation will determine if the requested use is compatible with authorized project purposes, is in the best interests of the public, and is consistent with appropriate resources management and environmental considerations for the area. Examples of activities which may be authorized include:

- Special events;
- Utility crossings;
- Electric transmission lines crossings,
- Communication sites;
- Road/highways/bridges;
- Commercial filming and photography;
- Livestock grazing;
- Any other use deemed appropriate by Reclamation.

Issuance of a land use authorization does not relieve the applicant of obtaining any other permits and authorizations that may be required for the proposed activity, such as CEQA, NEPA compliance, 401/402 permits, 404 permits, the National Historic Preservation Act, among others.

What kinds of uses are not authorized on Reclamation project lands and water surfaces?

A land use authorization will not be granted when, in the judgment of Reclamation, the use can not be reasonably accommodated on Reclamation project land and waters because it would:

- Be incompatible with authorized Project purposes and project operations, safety, or security;
- Jeopardize the interests of the United States;

- Result in unacceptable impacts to the environment, natural or cultural resources, public health and safety that would be incompatible with applicable land use planning decisions or project operations;
- Violate state or local law, regulation, ordinances, or zoning;
- Be an otherwise inappropriate use of Federal property;
- Result in, or would give the appearance of, private exclusive recreation or residential use of Reclamation lands or water surfaces. Such prohibited uses include but are not limited to:
 - Cabins, homes, permanent mobile home sites, outbuildings or similar structures, and/or their associated landscaping, patios, decks, and porches;
 - Boat houses, docks, moorings, and launch ramps;
 - Floating structures or buildings, including moored vessels used as residences or business sites;
 - Hunting, fishing, camping, and similar privately developed sites;
 - Access to private lands, facilities, or structures when other reasonable alternative access is available or can be obtained.

What do I have to do to apply?

1. You may contact the Reclamation office with management responsibility for the land where the proposed activity(s) is needed. Reclamation realty staff can assist the applicant in determining which of the forms discussed below should be completed. There is no requirement for Reclamation to grant a use authorization and not all requests will be granted. If a use authorization is granted, it will contain all provisions which the applicant must comply with to protect the interests of the United States.

2. Depending upon the type of use requested, completion of the following application form(s) shall be completed and submitted to Reclamation along with a \$200 application fee:

A. Fee Lands:

- Standard Form SF-299, “**Application for Transportation and Utility Systems and Facilities on Federal Lands**,” must be completed to request a use authorization for the placement, construction and use of energy, transportation, water, and telecommunications and facilities on or across all Federally-owned property. This form is generally used when an applicant wants to cross Reclamation lands with a linear facility (road, electric line, pipeline, etc.)
- Form 7-2540, “**Bureau of Reclamation Right-of-Use Application**,” must be completed for all other uses not associated with the placement, construction and use of energy, transportation, water, and telecommunication facilities. Such uses include such short-term uses as recreation and sporting events, commercial filming/photography, archaeological research projects, and any other similar uses deemed appropriate by Reclamation.
- PEER, “**Project Environmental and Engineering Report**,” must be completed for all uses of United States land.

The above forms can be obtained by contacting the applicable Reclamation area/field office or they can be accessed electronically at Reclamation’s internet web site at: Forms may be obtained at: http://www.usbr.gov/mp/ccao/rec_land_use_docs/

B. Easement Lands

- Applicants requesting to use land where Reclamation only has an easement interest must complete a consent document from Reclamation using the SF-299 or Form 7-2540. If the proposed use does not unreasonably interfere with Reclamation's easement a consent document may be issued. The consent document will contain the conditions with which an applicant must comply to ensure the proposed use will not unreasonably interfere with Reclamation's easement. Additionally, if an applicant is not the owner of the land they will also need to obtain permission from the underlying landowner to use the land covered by Reclamation's easement.

3. Arrange a pre-application meeting with Reclamation via a letter directed to the Area Manager, describing the proposed land use. Appropriate staff members will contact you and arrange a joint meeting to discuss and review your proposed land use.

4. When you have assembled all of the required information, the application and supplemental information may be mailed to the appropriate Reclamation office, Attention: Area Manager, with applicable deposit fee (\$200). Reclamation will acknowledge in writing its receipt of the completed and signed application form and application fee within 30 days of receipt. Processing time depends upon the complexity of the request and whether or not additional information is needed. If the request is denied, the applicant will be notified in writing of the basis for denial.

PRE-APPLICATION MEETING

Reclamation wants to make the application process as easy as possible. The pre-application meeting provides the opportunity for you to fully discuss and describe your proposal in detail and provides an opportunity for Reclamation to fully explain the processing requirements. If possible, you should review the application form before the pre-application meeting. Be sure to bring any information that may be useful during this session, such as maps, preliminary construction plans/details, conceptual drawings, plat maps, etc (refer to the Pre-Application Checklist).

In addition, the pre-application meeting will cover costs/fees, safety requirements, estimated timeframes, and other items. This meeting can be very beneficial by saving both you and Reclamation time and expense.

COMPLETING THE APPLICATION (SF-299)

Instructions for completing the application are included on page 3 of the SF-299. For your convenience, instructions for completing the form are provided at the above-referenced website. Of note: incomplete information is often the reason application processing is unnecessarily delayed.

COSTS

There are three different fees or charges involved with processing your request for a Land Use Authorization:

Deposit Fee - A deposit fee of \$200 must accompany the initial application. The \$200 will open a reimbursable account, in the applicants name, and the applicant will be required to reimburse the United States for all administrative costs associated with processing an application.

Administrative Costs - Applicants will be required to pay the administrative costs which are in excess of the \$200 deposit for the preparation of land use authorization. Administrative costs include, but are not limited to: appraisal preparation and review, compliance with National Environmental Policy and the National Historic Preservation Acts; engineering review, preparation and issuance of the land use authorization, and costs for monitoring construction activities.

All billing for administrative costs will be well documented by Reclamation and the applicant may expect to receive monthly “Bill of Collection” notices once the initial \$200 deposit has been depleted. Applicant shall pay any excess administrative costs which Reclamation has incurred prior to issuance of the right-of-use.

Fair Market Value - The applicant shall pay Reclamation a fair market value of the right and privilege requested for the use of Reclamation’s lands. This value shall be determined by a DOI appraiser in accordance with Reclamation Manual – Directives and Standards for land appraisals.

Waiver or Reduction of Administrative Fees and Value of the Right-of-Use - In limited cases, Reclamation may waive or reduce fees and/or costs.

NOTE: No refund will be made for any deposits or any administrative costs which are in excess of the \$200 deposit if the applicant refuses to accept the right-of-use after it is prepared and offered.

TEMPORARY CONSTRUCTION PERMIT (TCP)

Temporary construction needs, such as additional lands necessary for stock piling material, equipment parking, extra construction width or spaces, etc., in conjunction with the requested use authorization should be requested at time of initial application. If there is a possibility that you may need additional lands, it is best to identify this in your application. This will save you additional time and expense and preclude any additional environmental, engineering, and processing time. A TCP should be discussed during the pre-application meeting and may be identified within the application (SF-299).

DESIGN CRITERIA

The degree of design must be compatible with the proposed use and anticipated environmental impacts. Reclamation will review and evaluate the submitted design criteria to determine the adequacy of the design for the applicants intended purposes. The following individual items provide a general list of items to be included within the applicants design criteria, for the applicable project:

A. Road Crossings

- Length and total width of ROW; width of road surface; maximum grade of road
- Minimum/maximum clearing width
- Cut/fill slope ratios
- Type and location of drainage structures, cattle guards, fences, gates
- Proposed surfacing type (gravel) and quantities, dust abatement
- Centerline survey plat
- Design drawings including: Plan and Profile sheets, typical roadway cross-sections, culvert installation details, grade dip detail
- Construction specifications
- Materials specifications

B. Utility Crossings (includes pipelines, electrical and communication lines and conduits, both above- and below-ground)

- Length and width of ROW
- Diameter of pipe and type of material
- Depth of pipeline
- Design drawings including: Plan and Profile sheets, construction specifications
- Materials specifications
- Size, number and type of conductors
- Height and size of tower/poles
- Vegetation clearance requirement
- Raptor proof design
- Construction access and equipment requirement
- Transformers, substations, anchor locations, pulling sites
- Canal milepost or station at each proposed crossing
- Type of sleeve/casing (when allowed) including diameter, joints, and wall thickness
- If attached to a bridge or overchute, include details showing the structure name, superstructure, abutments, embankments, protective dikes, method of attachment, spacing of utility supports on the structure, location of other attached utilities, and structural calculations

REMEMBER TO PLAN AHEAD

You should arrange for your pre-application meeting well in advance of when you would like to start work on the project. The estimated time to prepare and execute a right-of-use will vary depending on the request (complex construction activities, environmental compliance, preparation of an appraisal, etc.) and the complexity of your project. However, Reclamation will make every effort to expedite the right-of-use request.